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INTERVIEW KLIMA- UND UMWELTBEDINGTE FLUCHT SYMPOSIUM

## There is no point in waiting

Walter Kälin and the Nansen Initiative for disaster-induced displacement

**DANA SCHMALZ** — 15 July, 2015



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To better understand how climate change affects migration and displacement, we were inevitably led to interview Walter Kälin. Professor Kälin holds a chair at the University Bern, with a research focus on refugee and international human rights law. Over the years, displacement linked to natural hazards has emerged as one of his central academic interests. At the same time, Walter Kälin has been active within the United Nations Organization, for instance as a member of the Human Rights Committee and special rapporteur of the UN Human Rights Council. Currently,

Walter Kälin represents the Nansen Initiative, a state-led process aiming to develop propositions for dealing with climate- and disaster-induced displacement.

Professor Kälin, many thanks for the opportunity to conduct this interview. I am very curious to hear about your work with the Nansen Initiative. How did it come into being, and what is it about?

*The Nansen Initiative's origins go back to discussions prior to the UN Climate Change Conference 2009 in Copenhagen. Several organizations, among them UNHCR and IOM, advanced the opinion that forced displacement and migration would increase due to climate change, and that this should be addressed in the climate change negotiations. While that did not happen in Copenhagen, a year later the Cancún Agreements expressly mentioned climate-induced displacement and migration as part of the challenges to adapt to climate change.*

*The UN High Commissioner for Refugees had then hoped to get the green light from states to advance discussions on the topic. However, when it became clear that there was not sufficient state support for dealing with climate change and disaster-related displacement within the UNHCR framework, Norway and Switzerland launched a process outside the UN system: the Nansen Initiative. The idea was to begin with particularly interested states to collect information, conduct consultations, and thus build a basis for further discussion.*

*Before joining the Nansen Initiative, you had already been working intensely on climate-induced displacement. When were you first made aware of the topic?*

That was during my time as Representative of the UN Secretary-General for the Human Rights of Internally Displaced Persons. In that position, I was concerned with persons who had to flee their homes due to disasters. I had just been appointed to the position when the 2004 Indian Ocean Tsunami struck, and I took the view that the definition of internally displaced persons and the Guiding Principles were also applicable to cases of displacement in disaster contexts.

I then visited the tsunami-affected region, and had the opportunity to speak with numerous affected people and NGOs assisting them. It became clear that not only war but also disasters give rise to protection problems. To learn more about the issue, I subsequently travelled to several other regions hit by disasters: Honduras 10 years after Hurricane Mitch and New Orleans after Hurricane Katrina, as well Mozambique and Madagascar. They were all affected by climate- and environment-related disasters. The lessons from those visits all contributed to a report about the protection of internally displaced persons in situations of natural disasters, which I submitted to the Human Rights Council in 2009. They also served as an important basis for a manual on protection measures in such situations, which I developed together with humanitarian organizations.

So it began with the issue of displacement due to disasters. In your articles, you introduce a double distinction among cases of climate-induced displacement: between internal and cross-border displacement on the one hand, and between sudden-onset and slow-onset hazards as the reason for displacement on the other. Given the diversity of scenarios – does it make sense to speak about an all-encompassing category of “climate refugees”?

No, that doesn't make sense. Firstly, the question of legal responsibility poses itself differently in those cases. Internally displaced persons remain under the jurisdiction of their country and its national law, with human rights guarantees applying. However, if the displacement is across borders, we face a protection gap. Only very few cases will fall under the definition of a refugee as provided by the Geneva Refugee Convention. Thus, it remains open as to whether states can be obliged to admit such persons.

Equally, the notion of the "climate refugee" doesn't make sense insofar as science cannot prove the causal link between climate change and a particular weather event. What we can identify are trends, such as an increase in the frequency and intensity of weather-related environmental hazards. To put it briefly, the denomination of "climate refugee" doesn't help the persons concerned as protection could be denied too easily with the argument that the causality between climate change and flight has not been proven in their individual case. That is why we do not use the term "climate refugee" at the Nansen Initiative, but rather the term "disaster displaced persons".

Looking at the different scenarios, one of the most commonly cited examples of climate-induced displacement are the inhabitants of low-lying island states, which will "sink" due to rising sea levels. The territory of their state will thus disappear. In this context do we speak about refugees who are entitled to protection elsewhere? International law does not yet provide an answer, does it?

We held our first Regional Consultation in the Pacific with ten island states that are either already heavily affected or will be in the future. The first message we received in that consultation was the statement, "We are not refugees, and we

do not want to become refugees” They do not want to become refugees in the sense of becoming people who are left with the only option to flee, and as a result will be dependent on humanitarian aid. Their message was, “We know that we will have to leave, but we want to decide ourselves when and how. We want to prepare ourselves. That’s why we do not need a refugee status, but channels for regular migration”. Thus, the emphasis should be on regional approaches and bilateral treaties for admission with states within the region. The persons concerned have a strong wish to preserve their own culture and, therefore, to stay in the region.

That means we should rather proceed in small steps than seeking a new international convention?

The challenge is very complex. Dynamics and needs vary from region to region. Cross-border displacement takes place largely in Central America, as well as in many parts of Africa, and only rarely, by contrast, in South-East Asia. Because the dynamics differ substantially, we accordingly aim for regional answers. Furthermore, the Nansen Initiative is not in the position to elaborate a new international convention as it is almost impossible to draft new global conventions outside existing institutions such as the United Nations. Such a step is not realistic for this topic, so we decided that there was no point in waiting. Instead, we decided that we have to go ahead and begin with the most affected regions.

But aren’t we also talking about a problem of global inequality? The states that primarily caused climate change, and which could contribute the most to mitigate its effects, are at the same time those that so far have experienced the least impact. Can regional treaties and remedies really provide an answer in face of this problem? Don’t we need an

agreement in which states of the Global North also commit themselves to contribute?

*The responsibility of industrialized states is evident. In our consultations, we have seen that states of the Global South expect foremost financial support as a matter of climate justice. Financial support can help affected states undertake climate change adaptation and disaster risk reduction measures. This concerns not only technical protection measures for particularly endangered areas, such as introducing drought-resistant plants or dams preventing inundations, but also, for instance, the planned relocation of people within the same state. Such financial support will surely be a topic at the climate change conference in Paris this year.*

Following the most recent event in the ongoing catastrophe in the Mediterranean, the issue of migration and asylum is currently very prominent in public debate in Europe. What role does climate change play in relation to the stories of the migrants on the boats? Does it play a role?

*The reasons why those people flee are presumably also associated with climate change, but we do not have the facts. They are classified either as war refugees, for instance those coming from Syria, or as economic migrants, for whom there is usually no legal protection. We have no concrete studies examining to what extent the causes for flight in the case of the latter are related to climate change. We lack knowledge in that field because such questions have not been asked systematically to date.*

What can we expect from the climate change conference in Paris?

It is important that the binding Paris Agreement includes the issue of climate-related displacement. It is important, but there will also be a lot of opposition. The ultimate aim is that states and the international community recognize their responsibility towards the affected people, and consequently, among other things, open the way for protection measures and financial support for the regions concerned.

How do you perceive the current debate about European asylum policies? What significance does it have for the issue of climate-induced displacement?

The current debate about asylum policies seems to be oriented towards further restrictions, while a willingness to recognize a new category of refugees hardly exists. On that note, we might say that the Nansen Initiative is not consistent with current trends. At the same time, our consultations have shown that a surprising number of approaches on which we can build already exist. Domestic law, for instance in North and South America as well as parts of Europe, includes provisions that, under certain circumstances, allow for the protection of people who had to flee due to disasters or the effects of climate change. In Switzerland, for example, the instrument of so called “provisional admission” can be applied in cases when deportation would be unreasonable in light of humanitarian considerations. In Central America, a number of states have the tradition of granting “humanitarian visas” for disaster displaced persons. Other mechanisms include the United States’ “temporary protection status”, East Africa’s use of the broad refugee concept of the OAU Refugee Convention for protecting persons fleeing starvation in Somalia, or – right now – the free movement of persons between Nepal and India.

Those are examples of individual starting points in certain parts of the world, but I believe it important to stress that such points already exist. Our work has also shown that climate change adaptation and disaster risk reduction measures, as well as planned relocation or the facilitation of regular migration for people from particularly affected regions can also contribute to an overall environment from which people do not have to flee. In other words, provided there is the political will, we can do a lot to help potentially affected people avoid displacement. At the same time, we have to protect them in cases in which flight is unavoidable. Those are the two key messages of the Protection Agenda that the Nansen Initiative is going to approve in October this year during its Global Consultation in Geneva.

This interview is part of the [series](#) on climate-induced forced migration, which the [Flüchtlingsforschungsblog](#) and the [Völkerrechtsblog](#) issue jointly.

ISSN 2510-2567

**Tags:** *Climate change*, *Refugee law*



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